

REMARKS

Status of Claims

Claims 1-23 are pending and have been rejected by the Examiner. Claims 1, 9, 17 and 22-23 have been amended. Accordingly, claims 1-23 are presented and at issue. The Applicant respectfully requests reconsideration and withdrawal of the rejections in view of the foregoing amendments and following remarks. No new matter has been entered.

Support for Claim Amendments

The amendment to independent claims 1, 9, and 17 and dependent claims 22 and 23 are fully supported in Applicant's specification. See for example, paragraphs [0037], [0039], [0049], [0050], and [0053], FIG. 1, and the claims as originally filed.

Rejections Under 35 U.S.C. §101

Claims 1-8 were rejected under 35 U.S.C. §101, as being allegedly directed at non-statutory subject matter. Claim 1 has been amended to recite *inter alia* "collecting, on the computer processors, data resulting from the time study... forecasting, on the computer processors." The Applicant submits that claim 1, and its dependent claims 2-8, are directed to statutory subject matter and requests reconsideration and withdrawal of the rejection.

Rejections Under 35 U.S.C. §103

The Examiner has not provided citations to references in support of any rejections for claims 19 and 20. As claims 19 and 20 recite features substantially similar to those recited in claims 5, 13 and 6, 14, respectively, the Applicant will address the rejections of claims 5, 13 and 6, 14 to include claims 19 and 20.

Claims 1, 9 and 17 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Michaels, Edward, Work Measurement (1989) (hereinafter "Michaels") in view of Nation et al. U.S. Patent Publication No. 2007/0203711 (hereinafter "Nation").

The Applicant traverses the rejection of claim 1 as being allegedly unpatentable over Michaels in view of Nation. Claim 1 has been amended to recite, *inter alia*,

“forecasting, on the computer processors, future resource requirements based upon reports generated as a result of the collecting data, identifying issues, and training individuals, wherein the future resource requirements are forecasted using the training by comparing actual progress made by individuals to planned progress for the individuals, the planned progress derived in response to a training assessment.” Neither of the references, alone or in combination, teaches or suggests these features. Michaels generally discloses providing feedback to employees (paragraph 5), but is devoid of teaching or suggesting forecasting future resource requirements in response to progress made by individuals measured by their training. In addition, Nation generally discloses training employees (e.g., Figure 8E) but does not teach or suggest forecasting future resource requirements based upon the training. For at least this reason, claim 1 is believed to be patentable over Michaels and Nation, both alone and in combination.

Independent claim 9 has been amended to recite, *inter alia*, “forecasting, on the computer processors, future resource requirements based upon reports generated as a result of the collecting data, identifying issues, and training individuals, wherein the future resource requirements are forecasted using the training by comparing actual progress made by individuals to planned progress for the individuals, the planned progress derived in response to a training assessment.” As indicated above with respect to claim 1, neither Michaels nor Nation may be relied upon for teaching or suggesting these features. For at least this reason, independent claim 9 is patentable over Michaels in view of Nation and is in condition for allowance.

Independent claim 17 has been amended to recite, *inter alia*, “forecasting, on the computer processors, future resource requirements based upon reports generated as a result of the collecting data, identifying issues, and training individuals, wherein the future resource requirements are forecasted using the training by comparing actual progress made by individuals to planned progress for the individuals, the planned progress derived in response to a training assessment.” As indicated above with respect to claim 1, neither Michaels nor Nation may be relied upon for teaching or suggesting these features. For at least this reason, independent claim 17 is patentable over Michaels in view of Nation and is in condition for allowance.

Claims 2 and 10 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Michaels in view of Nation, and further in view of Leehman, U.S. Patent Publication No. 2005/0043976 (hereinafter “Leehman”).

With regard to claim 2, the Examiner states that Michaels in view of Leehman teaches “updating a database of roadmaps based upon notification of a compliance resulting from an activity assessment,” citing the last bullet of page 55, steps 5-6 of page 59, and paragraphs 2-3 on page 61 of Michaels, and paragraphs [0019], [0023], and [0035]-[0037] of Leehman. The last bullet of page 55 of Michaels recites “upgraded schedules and work assignments.” The term “upgraded” merely implies that some sort of update occurred to the schedules and work assignments and does not teach or suggest “updating a database of roadmaps based upon notification of a compliance resulting from an activity assessment.” Steps 5 and 6 on page 59 of Michaels teaches “revising and fine tun[ing]” a new process and installing the new process permanently. Assuming *arguendo* that revising and fine tuning is the same as “updating a database of roadmaps,” which it is not, Michaels does not specify what the “revising and fine tuning” is based upon. (Michaels, page 59). The Examiner appears to imply that the revising and fine tuning is “based upon notification of a compliance resulting from an activity assessment,” however, this implication is not supported in Michaels. Even assuming that revising and fine tuning is in response to “expected savings being achieved” there is nothing in Michaels that teaches “updating a database of roadmaps based upon notification of a compliance resulting from an activity assessment.” (Michaels, page 59) Step 4 of Michaels recites, “establish levels of savings [as a result of the revised work method].” Step 5, in view of step 4, therefore, teaches at most that the fine tuning is in response to not meeting the “expected savings” because once the “expected savings” are achieved fine tuning would not be required. (Michaels, page 59). Therefore, Michaels does not teach “updating a database of roadmaps based upon notification of a compliance resulting from an activity assessment.” In addition, as the Examiner states on page 20 of the Office Action, there is nothing in Michaels that teaches or suggests “updating a database of roadmaps.” The Examiner relies on Leehman to teach “updating a database of roadmaps based upon notification of a compliance resulting from an activity assessment.” Leehman in paragraph [0019] teaches that “KPI indicates noncompliance with the

performance criteria.” Paragraph [0023] teaches a “replacement process is selected from the best process database.” There is nothing in paragraph [0023] that teaches or suggests “updating a database of roadmaps based upon notification of a compliance resulting from an activity assessment.” The best practices database is a set of document processes that are used throughout Leehman as a source of processes to implement in the current “process map.” (Leehman, Para. [0023]). As Leehman teaches replacing processes in the process maps if they do not meet the best practices PKI. (Leehman, Para. [0023], “current processes are compared to a corresponding best practice process to determine which process will be most cost effective...If a replacement process is selected from the best process database, the new process is substituted into the process map”). Although Leehman teaches “Successful processes are added to the best practice database for future use,” the insertion of processes in the database does not teach or suggest “updating a database of roadmaps based upon notification of a compliance resulting from an activity assessment.” Therefore, for at least these reasons, claim 2 is allowable over the combination of Michaels and Leehman.

Claim 10 recites “updating a database of roadmaps based upon notification of a compliance resulting from an activity assessment.” Claim 10 is allowable over the combination of Michaels and Leehman for at least the same reasons as discussed above with regard to claim 2.

Claims 3-4, 11-12 and 18 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Michaels in view of Nation, and further in view of Kaplan et al., Linking the Balanced Scorecard to Strategy (1996) (hereinafter “Kaplan”). Claims 3-4, 11-12 and 18 are believed to be allowable for at least the reason that they depend from what should be an allowable base claim.

Claims 6 and 14 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Michaels in view of Nation, and further in view of Goodkovsky, U.S. Patent No. 6,807,535 (hereinafter “Goodkovsky”). Claims 6 and 14 are believed to be allowable for at least the reason that they depend from what should be an allowable base claim.

Claims 5, 13 and 21 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Michaels, in view of Nation, in view of Kaplan, and further in view of

Leehman. Claims 5, 13 and 21 are believed to be allowable for at least the reason that they depend from what should be an allowable base claim.

Claims 7 and 15 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Michaels, in view of Nation, and further in view of Denton, Keith D., Work sampling: Increase Service and White Collar Productivity (1987) (hereinafter “Denton”). Claims 7 and 15 are believed to be allowable for at least the reason that they depend from what should be an allowable base claim.

Claims 8 and 16 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Michaels, in view of Nation, and further in view of Wilde, Edwin, A performance control system (1993) (hereinafter “Wilde”) and Bluepumpkin Software, Inc.’s PrimeTime system/method (product) as evidence by at least: PrimeTime F&S version 1.3 User’s Guide (1997-1998) (hereinafter “Bluepumpkin”). Claims 8 and 16 are believed to be allowable for at least the reason that they depend from what should be an allowable base claim.

Claims 22 and 23 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Michaels, in view of Nation, in view of Kaplan, and further in view of McConnel, U.S. Patent No. 7,158,628 (hereinafter “McConnel”). Claims 22 and 23 are believed to be allowable for at least the reason that they depend from what should be an allowable base claim.

Claim 22 has been amended to recite *inter alia* “determining the percentage of change in the number of repeat calls over time, for a work area by comparing the number of calls on the same issue with the key measurement indicators, the work area including a plurality of workers.” The Examiner states that McConnel teaches “determining ... the number of repeat calls over time,” citing col. 5, lines 55-62 and FIG. 4 element 460 in support. McConnel teaches “‘performance indicator,’ in respect to an agent, is used herein to refer to metrics of an individual agent’s actual on-the-job performance [including] first call resolution.” (McConnel, Col. 5, lines 55-60). The Examiner further takes Official Notice that “determining the percentage of change in the number of repeat calls over time” is allegedly “old and very well known.” The Applicant respectfully disagrees. There is nothing in McConnel that teaches or suggests “determining the percentage of change in the number of repeat calls over time, for a work area by

comparing the number of calls on the same issue with the key measurement indicators, the work area including a plurality of workers.” Furthermore, the Applicants disagree with the Examiner’s use of official notice.

The Examiner’s use of Official Notice in this circumstance is improper. MPEP § 2144.03 defines when it is proper to use Official Notice. In particular, the MPEP states “Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known.” The MPEP also states “It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.” The MPEP gives as an example specific knowledge of the art. In this case, the limitations of a structural manner of unifying the cover, the door and the air cleaning device are not capable of instant and unquestionable demonstration as being well-known. Applicant asserts that it is improper to rely on Official Notice for the limitations recited in claim 22 for at least the reason that “determining the percentage of change in the number of repeat calls over time, for a work area” is not capable of “instant and unquestionable demonstration as being well-known,” for at least the reason that McConnel teaches measuring the number of repeat calls for an *individual*. (McConnel, col. 5, lines 55-60). Therefore, for at least these reasons, claim 22 is allowable over the combination of Michaels, Nation, Kaplan, and McConnel.

Claim 23 has been amended to recite *inter alia* “determine the percentage of change in the speed in which a customer call is answered over time, for a work area, by comparing the measurement of the speed in which a customer call is answered with the key measurement indicators in order to, the work area including a plurality of workers.” The Examiner states that McConnel teaches “determine ... the speed in which a customer call is answered,” citing col. 5, lines 55-60 in support. McConnel teaches “‘performance indicator,’ in respect to an agent, is used herein to refer to metrics of an individual agent's actual on-the-job performance [including] speed of answer.” (McConnel, Col. 5, lines 55-60). The Examiner further takes Official Notice that “determine the percentage of change in the speed in which a customer call is answered over time,” is allegedly “old

and very well known.” The Applicant respectfully disagrees. There is nothing in McConnell that teaches or suggests “determine the percentage of change in the speed in which a customer call is answered over time, for a work area, by comparing the measurement of the speed in which a customer call is answered with the key measurement indicators in order to, the work area including a plurality of workers.” Furthermore, the Applicants disagree with the Examiner’s use of official notice.

The Examiner’s use of Official Notice in this circumstance is improper. MPEP § 2144.03 defines when it is proper to use Official Notice. In particular, the MPEP states “Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known.” The MPEP also states “It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.” The MPEP gives as an example specific knowledge of the art. In this case, the limitations of a structural manner of unifying the cover, the door and the air cleaning device are not capable of instant and unquestionable demonstration as being well-known. Applicant asserts that it is improper to rely on Official Notice for the limitations recited in claim 23 for at least the reason that “determine the percentage of change in the speed in which a customer call is answered over time, for a work area” is not capable of “instant and unquestionable demonstration as being well-known,” for at least the reason that McConnell teaches measuring the call answer speed for an individual. (McConnell, col. 5, lines 55-60). Therefore, for at least these reasons, claim 23 is allowable over the combination of Michaels, Nation, Kaplan, and McConnell.

Conclusion

In view of the foregoing amendments and remarks, it is submitted that the application is in condition for allowance. Such action is therefore respectfully requested.

If a communication with Applicant's Attorneys would assist in advancing this case to allowance, the Examiner is cordially invited to contact the undersigned so that any such issues may be promptly resolved.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 06-1130. In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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